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March 25, 2020

Katherine Polk Fialla
United States District Judge
Southern District of New York
40 Foley Square, Room 2103
New York, New York 10007

MEMO ENDORSED

Re: Doe v. East Side Club, LLC, *et al.*
Docket: 1:18-cv-11324-KPF

Honorable District Court Judge Failla:

As your Honor is aware, my firm represents all Defendants named in the above captioned action. On March 3, 2020, I submitted a Stipulation to the Court regarding dates for the submission of my motion for sanctions in the form of legal fees and costs. See ECF Doc. 100, 103. Pursuant to the agreement of counsel, my motion is due April 3rd; Plaintiff and his counsel to serve opposition on or before May 4th; and, Defendants to serve a final reply if any on or before May 25th. Yesterday, I emailed my adversary and requested consent to modify the so ordered briefing schedule. I requested my adversary consent to the motion being filed on or before May 4, 2020, Plaintiff's opposition on or before June 8, 2020 and our reply if any on or before June 15, 2020. My adversary declined his consent, asserting my motion is frivolous, brought in bad faith and in-and-of-itself sanctionable. For the reasons articulated on the record at two recent conferences, see ECF Doc. 102, 110, I respectfully disagree. Given we have "met and conferred" without success, I am filing this letter motion seeking to have the existing schedule modified as proposed above.

I am requesting additional time to file as I when I agreed to the briefing schedule, the extent to which the current Corona virus would impact me, my practice (as a solo practitioner) and my family, was unforeseeable. Since that time, the following unforeseeable circumstances have arisen both personally and professionally:

1. As an employment lawyer, I have been working with numerous clients in regard to layoffs, severance agreement and other legal matters that have arisen given the New York State Governor's Executive Order regarding closure of non-essential business, on March 7, 2020. See Exhibit A. At the time we agreed to the existing schedule, I did not foresee the extent of the pandemic and Governor's Executive Order which has impacted many clients, including the clients sued in this action. The amount of time it has taken to address these time sensitive issues is extensive and was not foreseeable in very early March 2020.
2. My niece who was studying abroad in Spain returned on March 14, 2020. She is in quarantine with her entire family since then. She was tested for Corona virus on March 17, 2020 but the test results have *not* come back. Her mother (my sister) who is subject to quarantine, assists in the care of my 90-year-old Mother who is partially disabled. Since March 14, 2020, I have been in Albany, New York living with my Mother to assist in her day-to-day care, given my sister is in quarantine. This is a major undertaking which was not foreseeable at the time we agreed to the briefing schedule.
3. I have portions of the file in this matter with me in Albany, but the vast majority in my Manhattan office. I have not been able to travel back to Manhattan given I am with my Mother and my sister is unable to help. It is my hope that my sister and her entire family will be cleared of having the Corona virus which would then allow me to travel to Manhattan to obtain the rest of this file and other client files. If my sister and her family are found to have the Corona virus, I will have to make other home care arrangements and will then travel to Manhattan to obtain additional portions of this file. I am hopeful we will know the status of my sister and her family by Friday at the very latest.

None of the foregoing was foreseeable or contemplated at the time the so ordered briefing schedule was entered. I therefore respectfully request the existing motion schedule be amended as possible: Our motion filed on or before May 4, 2020; Plaintiff's opposition on or before June 8, 2020; and, our reply if any on or before June 15, 2020.

I thank the Court for its consideration and for understanding given the extent of the pandemic.

Respectfully,

T/D/S

Thomas D. Shanahan

Cc: Johnmack Cohen, Esq.

Application GRANTED. Defendants' motion for sanctions shall be filed on or before May 4, 2020. Plaintiff's opposition papers shall be filed on or before June 8, 2020. Defendants' reply papers, if any, shall be filed on or before June 15, 2020.

Dated: March 27, 2020
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla". The signature is written in a cursive, flowing style.

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE